

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TRUSTEES OF THE WILL COUNTY LOCAL)
174 CARPENTERS PENSION TRUST FUND)
and WILL COUNTY LOCAL 174 WELFARE)
FUND,)

Plaintiffs,

V.

FIRST CARPENTER CONTRACTORS, INC.,)
a dissolved Illinois Corporation,)

Defendant.

FILED: APRIL 15, 2008
08CV2141 TG
JUDGE MANNING
MAGISTRATE JUDGE COX

COMPLAINT

Plaintiffs, TRUSTEES OF THE WILL COUNTY LOCAL 174 CARPENTERS PENSION TRUST FUND and WILL COUNTY LOCAL 174 CARPENTERS WELFARE FUND, by their attorneys, DONALD D. SCHWARTZ, PHILIP BRZOZOWSKI and ARNOLD AND KADJAN, complain against Defendant, FIRST CARPENTER CONTRACTORS, INC., a dissolved Illinois corporation, as follows:

1. (a) Jurisdiction of this cause is based on Section 301 of the National Labor Relations Act, 29 U.S. C. Section 185(a) as amended.

(b) Jurisdiction of this cause is based upon Section 502 of the Employee Retirement Security Act of 1974, 29 U.S.C. Section 1132, 1145 ("ERISA"), as amended.

2. Venue is founded pursuant to 29 U.S.C. Section 1132(e)(2) in this District where the Funds, as described in Paragraph 3, are administered.

3. (a) The Plaintiffs in this count are TRUSTEES OF THE WILL COUNTY LOCAL 174 CARPENTERS PENSION TRUST FUND and WILL COUNTY LOCAL 174 CARPENTERS WELFARE FUND (“the Funds”), and have standing to sue pursuant to 29

U.S.C. Section 1132(d)(1).

(b) The Funds have been established pursuant to collective bargaining agreements previously entered into between the Chicago and Northeast Illinois District Council of Carpenters and its affiliated locals (the "Union") and certain employer associations whose employees are covered by the collective bargaining agreement with the Union.

(c) The Funds are maintained and administered in accordance with and pursuant to the provisions of the National Labor Relations Act, as amended, and other applicable state and federal laws and also pursuant to the terms and provisions of the agreements and Declarations of Trust which establish the Funds.

4. (a) Defendant, FIRST CARPENTER CONTRACTORS, INC., (**"First Carpenter"**) is a dissolved Illinois corporation and is doing business within this Court's jurisdiction.

(b) **First Carpenter** is an employer engaged in an industry affecting commerce.

5. Since August 11, 1994 **First Carpenter** has entered into successive collective bargaining agreements with the Union pursuant to which it is required to pay specified wages and to make periodic contributions to the Funds on behalf of certain of its employees. (See copy of Agreement attached hereto as Exhibit 1).

6. By virtue of certain provisions contained in the collective bargaining agreements, **First Carpenter** is bound by the Trust Agreement establishing the Funds.

7. Under the terms of the collective bargaining agreements and Trust Agreements to which it is bound, **First Carpenter** is required to make contributions to the Funds on behalf of its employees and, when given reasonable notice by Plaintiffs or their representatives, to submit all necessary books and records to Plaintiffs' accountant for the purpose of determining whether

or not it is in compliance with its obligation to contribute to the Funds.

8. Plaintiffs are advised and believe that for **January 1, 2004 through the present**, **First Carpenter** has failed to make some of the contributions from time to time required to be paid by it to the Funds pursuant to the terms of the collective bargaining agreements and Trust Agreements by which it is bound, all in violation of its contractual obligations and its obligations under applicable state and federal statutes.

9. Plaintiffs' auditors have repeatedly contacted **First Carpenter** to request its cooperation to perform an audit of fringe benefit contributions by **First Carpenter** for the foregoing mentioned time period, but **First Carpenter** has refused to cooperate with an audit, in violation of its obligations under the collective bargaining agreement and Trust Agreements.

WHEREFORE, Plaintiffs pray for relief as follows:

- A. **First Carpenter** be ordered to submit to an audit for **January 1, 2004 through present**.
- B. Judgment be entered against **First Carpenter** and in favor of Plaintiffs, in the amount shown due under the audit.
- C. Plaintiffs be awarded their costs herein, including reasonable attorneys' fees and costs incurred in the prosecution of this action, together with liquidated damages in the amount of 20%, all as provided in the applicable agreement and ERISA Section 502(g)(2).
- D. **First Carpenter** be enjoined from violating the terms of the collective bargaining agreements and Trust Agreements by failing to make timely payments to the Funds and be ordered to resume making those payments.
- E. This Court grant Plaintiffs such other and further relief as it may deem appropriate under the circumstances.

Respectfully submitted,
**TRUSTEES OF THE WILL COUNTY LOCAL
174 CARPENTERS, et al.**

By: 
One of their Attorneys

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EXHIBIT 1

date
8-25-94

AGREEMENT

First Carpenter
Firm Contractors, Inc. Address 9589 Henninger Drive
City Belvidere State IL Zip 61008 Phone 61008

THIS AGREEMENT is entered into between CHICAGO AND NORTHEAST ILLINOIS DISTRICT COUNCIL OF CARPENTERS, COOK, DU PAGE, GRUNDY, IROQUOIS, KANE, KANKAKEE, KENDALL, LAKE, MC HENRY AND WILL COUNTIES, ILLINOIS hereinafter sometimes referred to as the "UNION" and

First Carpenter Contractors, Inc.
hereinafter referred to as "EMPLOYER"

The EMPLOYER and the UNION do hereby agree as follows:

1. EMPLOYER recognizes the UNION as the sole and exclusive bargaining agent for and on behalf of the employees of the EMPLOYER coming within the territorial and occupational jurisdiction of the UNION.
2. EMPLOYER agrees to be bound by the terms of the Trust Agreements of the fringe benefit trust funds to which contributions are required to be made under the Agreement referred to in numbered paragraph 3 hereof and all rules and regulation adopted by the Trustees thereof, and agrees to make prompt payments of the per hour contributions with respect to each such Trust Fund.
3. EMPLOYER and the UNION hereby incorporate by reference and agree to be bound through their respective expiration dates by each of the Area Agreements in effect on December 31, 1983 negotiated between subordinated bodies of the United Brotherhood of Carpenters and Joiners of America and certain Employers Associations in counties of Illinois which, effective, on or after January 1, 1984, make up the geographic jurisdiction of the Chicago and Northeast Illinois District Council of Carpenters.

date
8-25-94

4. EMPLOYER and the UNION hereby agree to be bound by the Area Agreements negotiated between the Chicago and Northeast Illinois District Council of Carpenters and the various Employer Associations for the period beginning with the expiration date of the several Agreements referred to in numbered paragraph 3 thereof and ending on the expiration dates of any successor Agreements thereto from year to year thereafter unless the Employer gives written notice to the UNION of a desire to amend or terminate any of such Agreements at least three calendar months prior to the expiration of such Agreement or Agreements.

IN WITNESS WHEREOF, the parties have executed this Agreement the
11th day of August, 19 94.

EMPLOYER First Carpenter
Contractors, Inc.

CHICAGO AND NORTHEAST ILLINOIS
DISTRICT COUNCIL OF CARPENTERS

BY: David Cordray, President
(Print or Type Name) (Title)

David Cordray
(Signature)

William S. Rabinak
Business Representative
William Rabinak